APPENDIX

STATE OF WEST VIRGINIA:

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 4th day of March, 1968, the following order was made and entered, to-wit:

Mary Lee Lake, et al.

vs.

Potomac Light and Power Company, a corporation

On a former day, to-wit, February 15, 1968, came again the petitioners, Mary Lee Lake and Lewis W. Lake, her husband, by Lewis W. Lake, their attorney, and presented to the Court their petition for reapplication or for reconsideration of its refusal on the 5th day of February, 1968 to grant the appeal from a judgment of the Circuit Court of Hardy County rendered in this action on the 28th day of April, 1967, as prayed for in their petition and supplemental petition, with the record therein accompanying the petition, and note of argument in support thereof, heretofore filed herein; which being seen and inspected, the Court is of opinion not to consider, for the reason that the petition or motion for reapplication or reconsideration was made too late. Judge Berry absent.

A True Copy

Attest: KENNETH E. HINES,

Clerk Supreme Court of Appeals.

STATE OF WEST VIRGINIA:

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 5th day of February, 1968, the following order was made and entered, to-wit:

Mary Lee Lake, et al.

vs.

Potomac Light and Power Company, a corporation

On a former day, to-wit, December 12, 1967, came the petitioners, Mary Lee Lake and Lewis W. Lake, her husband, by Lewis W. Lake, their attorney, and presented to the Court their petition and supplemental petition praying for an appeal from a judgment of the Circuit Court of Hardy County rendered in this action on the 28th day of April, 1967, with the record therein accompanying the petition, and note of argument in support thereof, which being seen and inspected by the Court the appeal prayed for is refused. Judge Caplan absent.

A True Copy

Attest: KENNETH E. HINES,

Clerk Supreme Court of Appeals.

PLAINTIFFS PRAYER NO. 5

The plaintiffs pray the court to instruct the jury that no evidence legally sufficient, oral or documentary has been presented to the jury to show that the land described in the deeds to the plaintiffs, and the oral testimony and documents and plats offered in evidence is not owned by and vested in the plaintiffs, free of incumbrance, and that under the law the defendant has no legal right to maintain the power poles, wires and other equipment on or over the plaintiffs' property over their objection and against their wishes, and their verdict must be for the plaintiffs that the defendant is illegally trespassing on the plaintiffs' land.

PLAINTIFFS INSTRUCTION NO. 8

The plaintiffs pray the court to instruct the jury that no evidence legally sufficient has been presented for their consideration to show that the plaintiffs' title to the land does

not extend to Route No. 55 at the Northerly side of the 18 foot hard surface of said road, and therefore their verdict must be that the defendant is trespassing on the plaintiffs' land where it borders on said Route, referred to in Plaintiffs' Exhibit 1.

And further that no evidence legally sufficient has been presented for their consideration to show that the plaintiffs' title to the land does not extend to the center of the driveway which is the location of the center of the drain referred to in the Plaintiffs' Exhibit No. 1 as the northerly boundary of plaintiffs' land, and therefore that the defendant is trespassing on the plaintiffs' land that borders on the center of said drain.

DEFENDANT'S INSTRUCTION NO. 3

The Court instructs the jury that if they find by a preponderance of the evidence in this case that the State Road Commission of West Virginia has granted a permit in accordance with the West Virginia Statute to Potomac Light and Power Company to erect electric poles with electric wires thereon within the boundaries of the State Road right of way and if the jury further believes by a preponderance of the evidence that in front of the property owned by the Plaintiffs that the State Road Commission does have a 40 foot right of way and that the poles and wires of the Power Company have at all times been within the said 40 foot road right of way then the jury should find that the Defendant has not made a trespass upon the property of the Plaintiffs as to these poles and electric wires.

DEFENDANT'S INSTRUCTION NO. 4

The Court instructs the jury that if they find by a preponderance of the evidence in this case that the Town of Wardensville has granted a permit in accordance with the West Virginia Statute to Potomac Light and Power Company to erect electric poles with electric wires thereon within the boundaries of the Town of Wardensville right

of way and if the jury further believes by a preponderance of the evidence that in front of the property owned by the Plaintiffs that the Town of Wardensville does have a 10 foot right of way and that the poles and wires of the Power Company have at all times been within the said 10 foot right of way then the jury should find that the Defendant has not made a trespass upon the property of the Plaintiffs as to these poles and electric wires.